

**UNITED STATES BANKRUPTCY COURT**  
**MIDDLE DISTRICT OF FLORIDA**  
*Tampa Division*  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

IN RE:

Chapter 11

KHALIL E. ABDO,

Case No.: 8:18-bk-01699-CPM

Debtor. \_\_\_\_\_/

**MOTION FOR**  
**APPROVAL OF COMPROMISE OF CONTROVERSY**

**NOTICE OF OPPORTUNITY TO**  
**OBJECT AND REQUEST FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within **twenty-one (21) days** from the date set forth on the attached proof of service, plus an additional three (3) days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at **Sam M. Gibbons, United States Courthouse, 801 N. Florida, Avenue, Tampa, FL 33602**, and serve a copy on the Movant's attorney, **Buddy D. Ford, Esquire, 9301 West Hillsborough Avenue, Tampa, FL 33615**, and any other appropriate person(s), within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

Pursuant to the Federal Rules of Bankruptcy Procedure 9019 and Rule 9019-1 of the local rules of the United States Bankruptcy Court for the Middle District of Florida, Debtor, Khalil E. Abdo, by and through his undersigned counsel, file this, his Motion for Approval of Compromise of Controversy (the "Motion") and in support thereof states as follows:

### **Jurisdiction of Venue**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §157 and 1334. The subject matter of this Motion is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper before this Court pursuant to 28 U.S.C. §1408 and 1409.

### **Background**

2. The Debtor filed his voluntary petition under Chapter 13 of the Bankruptcy Code on March 7, 2018 (the “Petition Date”).

3. Encore Fund Trust 2013-1 (“Encore”) holds a first position lien in the amount of \$1,646,249.08 on the Debtor’s homestead located at 18520 Rustic Woods Trail, Odessa, Florida 33556.

4. On June 1, 2018, the Debtor and Encore attended a mediation conducted by Matthew J. Kovschak and reached a full settlement concerning the treatment of Encore’s claim against the Debtor. A copy of the Mediated Settlement Agreement is attached hereto as **Exhibit “A”** and incorporated herein by reference.

### **Summary Terms of Settlement Agreement**

5. The Mediated Settlement Agreement reduces the Debtor’s total obligation to Encore by approximately \$300,000.00 and provides for feasible, monthly, interest only payments of approximately \$3,937.50 for sixty months. At the conclusion of the sixty-month period, the Debtor is obligated to tender a balloon payment of approximately \$1,240,000.00 to Encore. The Debtor is also obligated to tender \$125,000.00 to Encore upon the approval of the Mediated Settlement Agreement.

6. In the event that the terms of the Mediated Settlement Agreement differ with the terms set out in the instant motion, the Mediated Settlement Agreement controls.

**Relief Requested**

10. By this Motion, the Debtor seeks the entry of an order authorizing the Debtor to consummate the Mediated Settlement Agreement.

11. The Mediated Settlement Agreement is in the best interest of both the Debtor and the bankruptcy estate.

**Legal Argument and Citation to Authority**

12. Federal Rule of Bankruptcy Procedure 9019 provides in relevant part that “[o]n motion ... the court may approve a compromise or settlement.”

13. The standards for approval are well settled and require the Court to inquire into the reasonableness of the proposed settlement. The Eleventh Circuit established the following four - part test for reviewing and approving motions filed under Rule 9019:

- (i) the probability of success in litigation;
- (ii) the likely difficulties in collection;
- (iii) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- (iv) the paramount interest of the creditors.

*In re: Justice Oaks II, LTD*, 898 F.2d 1544 (11<sup>th</sup> Cir. 1990).

14 In this case, the factors weigh in favor of approving the settlement.

15. Based upon the foregoing, the Debtor respectfully requests that the Court approve the settlement.

**WHEREFORE**, Khalil E. Abdo, the Debtor, respectfully requests that the Court enter an order granting the motion; approving the Mediated Settlement Agreement, and for such other and further relief as this Court shall deem appropriate.

**RESPECTFULLY SUBMITTED**, on this 20<sup>th</sup> day of June, 2018.

BUDDY D. FORD, P.A.,

/s/ Jonathan A. Semach

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Attorney for Debtor

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 20<sup>th</sup> day of June, 2018, a true and correct copy of the foregoing was sent by ■ CM/ECF Electronic Mail to:

Rachel L Ahlum    ecfflmb@aldridgepite.com, RAhlum@ecf.courtdrive.com  
Wanda D Murray    ecfflmb@aldridgepite.com, WMurray@ecf.courtdrive.com  
Ezra Z Scrivanich    Ezra@SHLegalGroup.com  
United States Trustee - TPA    USTPRegion21.TP.ECF@USDOJ.GOV  
Nathan A Wheatley    nathan.a.wheatley@usdoj.gov and by ■ regular mail to:

and, by ■ U.S. Regular Mail to:

Khalil E. Abdo, 8520 Rustic Woods Trail, Odessa, Florida 33556; and  
Twenty Largest Unsecured Creditors.

/s/ Jonathan A. Semach  
Jonathan A. Semach, Esquire (FBN: 0060071)  
Email: *Jonathan@tampaesq.com*